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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,386	06/21/2006	Marcus Hartvigsson	ABE-38790	1349
116 7590 10/13/2010 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
CORMIER, DAVID G				
ART UNIT		PAPER NUMBER		
1711				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,386

Applicant(s)

HARTVIGSSON, MARCUS

Examiner

DAVID CORMIER

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Interval Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments/Amendments

1. This Office action is responsive to the amendment filed on August 4, 2010. Claims 1-7, 9 and 10 are pending. Claims 1, 2, and 4 have been amended.
2. The rejection of Claims 1-7, 9, and 10 under 35 U.S.C. 112, second paragraph, as being indefinite is withdrawn in response to Applicant's amendments.
3. Claims 1-7, and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by Payzant (US 5,937,879). Claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over Payzant. Claim 10 was rejected under 35 U.S.C. 103(a) as being unpatentable over Payzant in view of Taylor, Jr. (US 5,660,195). Applicant has amended the claims to recite "wherein when the coarse sieve (33) is in the first position, the collecting part (34) is positioned within a flow of rinsing liquid such that the rinsing liquid can flow through the coarse sieve, and wherein when the coarse sieve (33) is in the second position, the collecting part (34) is positioned above the one or several fine filters (18, 19)." Applicant specifically argues that Payzant does not disclose this because when the pump filter 144 is raised (as in Figure 6), it is below the screen (138). The Examiner respectfully disagrees with the interpretation of the claim in view of Payzant, and believes that Payzant broadly and reasonably teaches the claimed invention. Payzant discloses that the filter (144) can be in a lower position to block the drain opening (112), as in Figure 5, or in a raised position to allow liquid to drain through the drain opening, as in Figure 6. Payzant also discloses that after the filter (144) is raised to the raised position for draining, the filter (144) can be lifted and removed by handle (154) when desired (col. 6, lines 1-4; col. 9, lines 21-40).

The filter in a lower position, such that it is blocking the drain, reads on the claimed first position, and the filter being lifted from the collar (142) reads on it being in a second position which is positioned above the one or several fine filters. Payzant also teaches "the coarse sieve being movable between a first position and a second position with the aid of actuating means arranged in the dishwasher" because the actuating means lifts the filter from the position in Figure 5 to the position in Figure 6 before the filter is lifted from the collar. Note the phrase "aid of actuating means" is considered to be very broad, and does not exclude a user from moving the filter in addition to the actuation means.

4. The rejections are modified in response to Applicant's amendments.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Payzant (US 5,937,879).

7. Regarding Claim 1, Payzant discloses a filter system for a household dishwasher comprising a wash space (24) and a liquid circuit that comprises a coarse sieve (144) and one or several fine filters (138), the coarse sieve being movable between a lower position and an upper position (see Figures 5 and 6) with the aid of actuating means, "solenoid" (182; col. 6, lines 5-44) arranged in the dishwasher. Payzant discloses that the filter (144) can be in a lower position to block the drain opening (112) and liquid can flow through the filter, as in Figure 5, or in a raised position to allow liquid to drain through the drain opening, as in Figure 6. Payzant also

discloses that after the filter (144) is raised to the raised position for draining, the filter (144) can be lifted and removed by handle (154) when desired (col. 6, lines 1-4; col. 9, lines 21-40). The filter in a lower position, such that it is blocking the drain, reads on the claimed first position, and the filter being lifted from the collar (142) reads on it being in a second position which is positioned above the one or several fine filters.

8. Regarding Claim 2, the course sieve being in certain positions during certain dishwashing cycles is considered to be intended use of the apparatus, as taught by Payzant, and is not being given patentable weight. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

9. Regarding Claim 3, Payzant discloses that the course sieve has a cylindrical body which is open at the top and has a bottom (Figure 6; col. 5, lines 58-61).

10. Regarding Claim 4, the phrase "serving as a coarse sieve for the circulating liquid when the coarse sieve is in a second position" is regarded as intended use of the apparatus and is not given patentable weight. For example, any remaining circulating liquid can flow through the filter as it is lifted up by its handle, or the dishwasher could even spray more water during the removal of the filter. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

11. Regarding Claim 5, the top portion of the perforated area of the course sieve, such as the top half of the sieve, is considered a collection portion, which has a circular/cylindrical wall and a bottom (the "bottom" of the collection portion could be interpreted to be the plane which

separates the "collection portion" from the "filtering area") with the filtering area being an extension of the circular wall part below said bottom.

12. Regarding Claim 6, Payzant discloses electrical circuitry for controlling the machine (Figure 7; col. 7, lines 4 and 5), the circuitry also controls the solenoid, 182 (col. 7, lines 48-53).

13. Regarding Claim 7, Payzant discloses a liquid collecting container divided into a first chamber, "basin" (108) and a second chamber (the bottom portion of the wash space directly at the top of the coarse sieve) divided by the fine filter (138), the first chamber communicating with a circulation pump whereas the second chamber is arranged to receive the coarse sieve.

14. Regarding Claim 9, because no orientation of the dishwasher has been specified, the actuating means, "solenoid" (182) of Payzant could be construed as being below the coarse sieve (see Figure 5).

Claim Rejections - 35 USC § 103

15. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

16. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payzant (US 5,937,879).

17. Payzant is relied upon as applied to Claim 1. The actuating means of Payzant is disclosed as being above the coarse sieve (Figure 5), not below the coarse sieve as claimed. It would have been obvious to one of ordinary skill in the art to move the solenoid to below the coarse sieve because this would simply be a rearrangement of parts, which is considered to be an obvious design choice. See MPEP 2144.04 (VI) (C).

18. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payzant (US 5,937,879) in view of Taylor, Jr. et al. (US 5,660,195).**

19. Payzant is relied as applied to Claim 9. Payzant does not expressly disclose that the actuating means is a wax actuator.

20. Taylor, Jr. discloses a dishwasher which uses a wax actuator (32) for actuating a valve. The wax actuator imparts a gradual movement to an element, such that movement of the element is gentle and quiet (col. 4, lines 6-30).

21. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the solenoid of Payzant with a wax actuator, such as in Taylor, Jr., which would yield the predictable result of having an effective actuation means that moves gently and quietly.

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CORMIER whose telephone number is (571) 270-7386. The examiner can normally be reached on Monday - Thursday 8:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art Unit
1711

/DGC/
David Cormier
10/08/2010